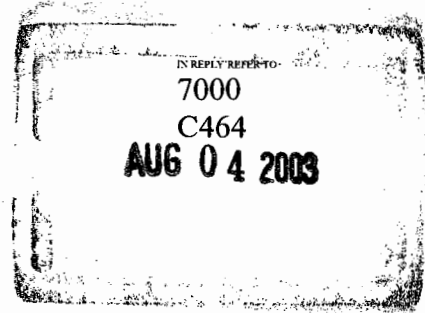




UNITED STATES MARINE CORPS
TRAINING AND EDUCATION COMMAND
3300 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5001



TECOM POLICY LETTER 1-02

From: Commanding General, Training and Education Command
To: Distribution List

Subj: CONTRACTING DOCUMENTATION REQUIREMENTS

Ref: (a) SECDEF Memorandum, "Use of Orders Under the Economy Act," February 8, 1994
(b) MCO 4200.32, "Justification and Approval (J&A) Procedures for Acquisitions using Other Than Full and Open Competition," February 11, 1993
(c) Department of Defense Financial Management Regulations Volume 11A
(d) Federal Acquisition Regulations

Encl: (1) Contract request for MCB Quantico flowchart
(2) Work request or Military Interdepartmental Purchase Request flowchart

1. Situation. Guidelines for executing contracting and acquisition services and support are outlined in the Federal Acquisition Regulations (FAR) and Department of Defense Financial Management Regulations (DoDFMR). These established policies and procedures must be followed to ensure legal compliance when contracting and acquiring systems, supplies and services needed to support TECOMs training and education missions.

2. Mission. As custodians and stewards of the funding allocated to support training and education requirements of the Marine Corps, each TECOM Command and staff section will ensure compliance with the processes described here and in the references.

3. Execution

a. Commanders Intent. Each command and staff organization within TECOM will ensure training dollars allocated to support TECOM's training and education requirements are properly justified, documented and executed. The desired end state is purchases supported by a clear and sufficient audit trail that both documents compliance and supports future budget decisions.

b. Concept of Operations. Successful planning and execution of contracting and acquisition requirements are accomplished through open communication and cooperation between program managers; subject matter experts; logistics experts; contracting personnel; financial personnel and legal counsel.

c. Tasks

(1) TECOM organizations located aboard MCB Quantico will prepare the documentation identified below to support contract funding and requests to transfer funds to external federal agencies. Documentation will be reviewed by the TECOM contracting representative and

Subj: CONTRACTING DOCUMENTATION REQUIREMENTS

Regional Contracting Office, Northeast (RCO, NE). The enclosures outline the documentation process for organizations at Quantico.

(2) Organizations located external to Marine Corps Base (MCB) Quantico will coordinate and comply with the contracting guidance and procedures established by local purchasing and contracting agencies.

d. Coordinating Instructions. The documentation identified below will be prepared to justify contract funding, and requests to transfer funds to external federal agencies.

(1) Statement of Work (SOW) or Statement of Objectives (SOO) that provides a detailed description of work/services to be performed or items to be delivered.

(2) Independent Government Cost Estimate (IGCE) outlining funding required for supplies and/or services.

(3) Source Selection Evaluation Plan – factors to be evaluated for selection of vendor.

(4) List of recommended sources.

(5) Justification and analysis (J&A) for Other Than Full and Open Competition - sole source requirements.

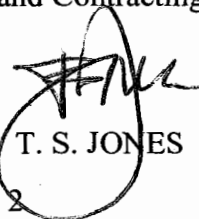
(6) Economy Act Determinations and Findings (D&F) for intra-agency support Agreements.

(7) Contracting Officer's Representative (COR) nomination letter. A COR and/or Contracting Officer Technical Representative (COTR) will be identified to monitor performance of contractor logistics support (CLS) or contractor engineering technical support (CETS) personnel.

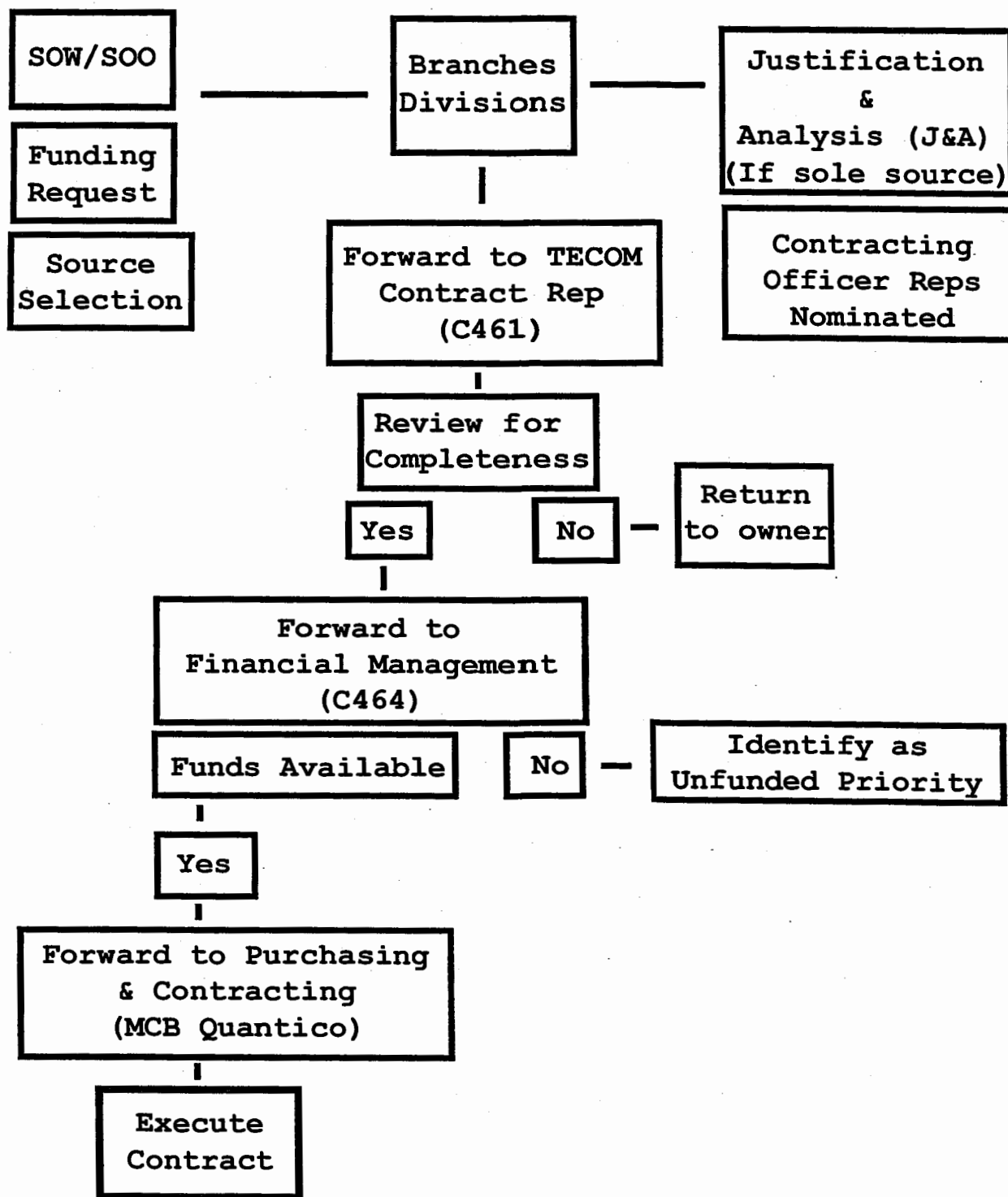
(8) Completed funding request signed by branch head.

4. Administration/Logistics. To assist organizations in preparing the necessary documentation, a contacting assistance website has been established at TECOM's website (http://www.tecom.usmc.mil/contracting_guidance). The website will provide users references, templates, instructions and checklists for preparing a procurement package. The information provided at the website does not supersede the policies and guidance outlined by the references or local contracting agencies.

5. Command & Control. TECOM Purchasing and Contracting POC is Mrs. Tracey Williams at DSN 278-3081.

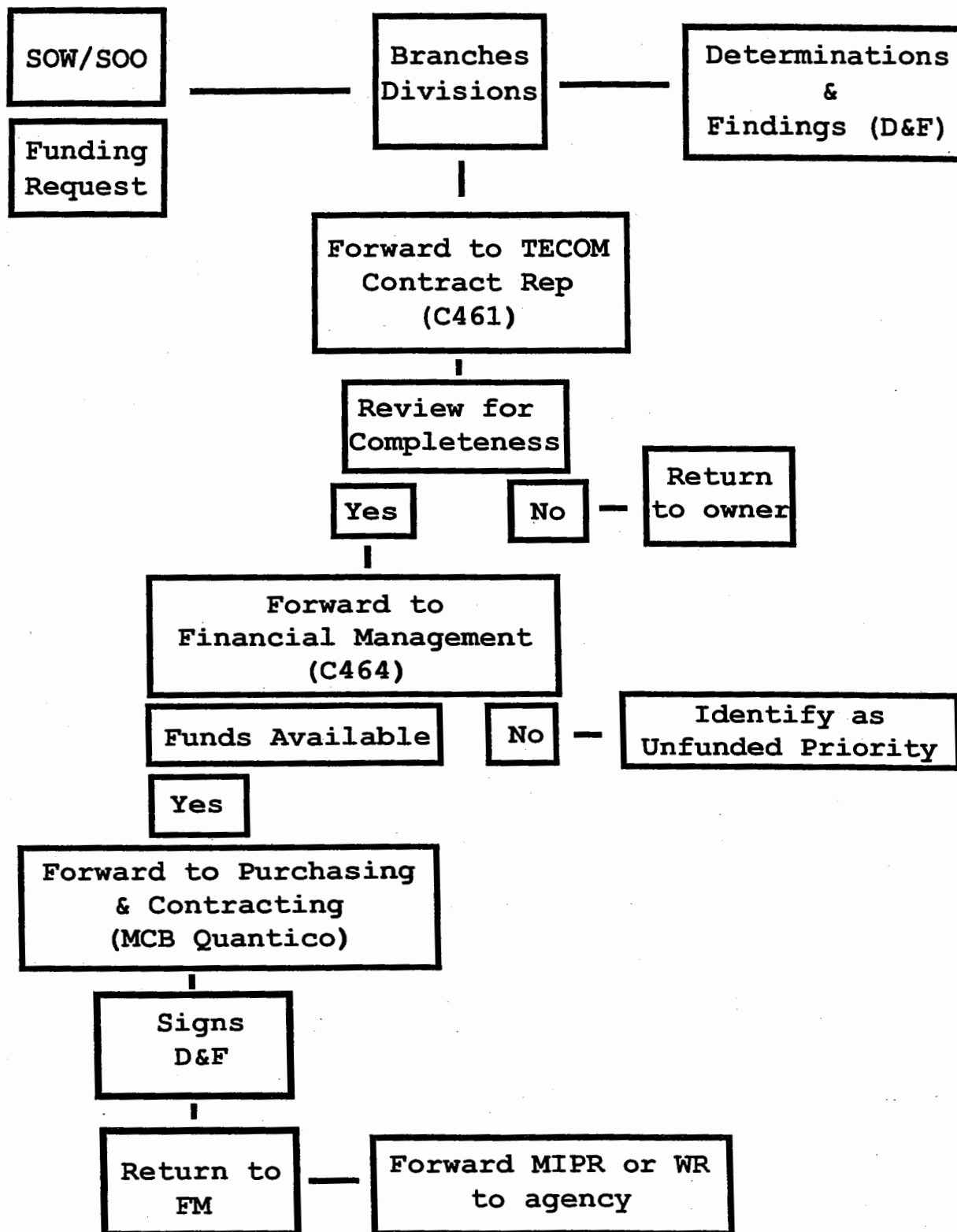

T. S. JONES
2

Contract Request for MCB Quantico



TECOM
Commands / Branches / Divisions
Located at MCB Quantico

Work Request or MIPRS to other Gov't Agencies



TECOM
Commands / Branches / Divisions
Located at MCB Quantico



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
2 NAVY ANNEX
WASHINGTON, DC 20380-1775

MCO 4200.32
LB
11 Feb 93

MARINE CORPS ORDER 4200.32

From: Commandant of the Marine Corps
To: Distribution List

Subj: JUSTIFICATION AND APPROVAL (J&A) PROCEDURES FOR
ACQUISITIONS USING OTHER THAN FULL AND OPEN COMPETITION

Ref: (a) Federal Acquisition Regulation (FAR), part 6
(b) Defense Federal Acquisition Regulation Supplement
(DFARS), part 206
(c) Navy Acquisition Procedures Supplement (NAPS),
part 5206
(d) MCO 4200.28
(e) SECNAVINST 5231.1C
(f) MCO 5236.2

Encl: (1) J&A Requirements/Procedures
(2) J&A Format

1. Purpose. To provide uniform procedures for review and approval of contracting actions involving other than full and open competition as described in references (a) through (c).

2. Cancellation. HQO 5420.25H.

3. Applicability. This Order applies to all requirements acquired through other than full and open competition which are contracted for under the authority of the Deputy Chief of Staff for Installations and Logistics as Head of the Contracting Activity (HCA). This Order is not applicable to the Marine Corps Systems Command.

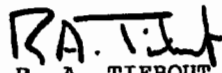
4. Background. References (a) through (c) prescribe the policies and procedures for contracting without providing for full and open competition. Reference (d) establishes the Competition Advocate Program within the Marine Corps. Citation 10 U.S.C. 2304 requires, with certain limited exceptions, that full and open competition be promoted and provided for by contracting officers. When required by reference (a), any exception to this full and open competition policy must be justified in writing. In addition, the references provide that the contracting officer is to ensure all requirements of law, regulation, and other applicable procedures are met, and that the required approvals are obtained. References (e) and (f) identify approvals that must be obtained prior to contracting for Federal Information Processing (FIP) resources (e.g., FIP

equipment, software, services, maintenance, related supplies.

5. Procedures. Review procedures, approval levels, and documentation requirements for J&A's are provided in enclosure (1). The required format for J&A's is provided in enclosure (2).

6. Request for Changes. Suggested changes to this Order should be sent to the Commandant of the Marine Corps (CMC) (LB) for consideration. Requested changes shall include a statement about why the change is needed, the recommended solution and any necessary discussion.

7. Reserve Applicability. This Order is applicable to the Marine Corps Reserve.


R. A. TIEBOUT
Deputy Chief of Staff
for Installations and Logistics

DISTRIBUTION: PCN 10204491500

Copy to: 7000110 (55)
7000156 (25)
8145005 (2)
7000099, 144/8145001 (1)

2

J&A Requirements/Procedures

1. General. This Order implements the FAR, part 6; DFARS, part 206; NAPS, part 5206; and other higher level policy memorandums. It specifically establishes HCA policy/procedures required by NAPS, part 5206 and emphasizes areas of special interest to the HCA and Competition Advocate of the Marine Corps. Implementation of the guidance contained herein should facilitate the J&A review and approval process, while ensuring compliance with regulatory requirements.

2. Preparation. Preparation of a J&A is a joint effort and requires input from technical and requirements personnel, legal counsel, competition advocate, and contracting officer. Information required to support a recommendation of other than

OASN (RD&A)

Over \$50,000,000

Senior Procurement Executive
of the Navy

7. Certifications/Dates

a. Except as noted in paragraph 7b, below, certifications shall be obtained and dated in the order listed in enclosure (2). Only certifications listed up to and including the appropriate approval authority (see paragraph 6 above) are required on a J&A.

b. When the contracting officer is the approving official, the contracting officer shall initial and date the contracting officer certification block prior to submission for legal review. After the review for legal sufficiency, the contracting officer shall fully execute the certification (for approval purposes) pursuant to FAR 6.304(a)(1).

8. Numbering. All Marine Corps J&A's, D&F's, and business clearances shall be serially numbered (see NAPS 5201.690-10) in the upper right corner of the document as follows: MC (followed by the first letter of each word identifying the activity, followed by the first letter of each word in the city name, followed by a consecutive serial number beginning with 10,000). Decimal digits shall be used per NAPS, when required. All J&A's requiring approval at a level above the HCA shall be numbered by the CMC (LBP). Examples:

MCLBA 10052 (for Albany)
MCBCL 10120.1 (for Camp Lejeune)
MCRDSD 10010 (for San Diego)

9. Competition Advocate of the Marine Corps and Higher Level Approvals. The original and four copies of any J&A requiring the approval of the Competition Advocate of the Marine Corps or higher shall be submitted to the CMC (LBP) for processing. These J&A's shall be reviewed by the HQMC Contracts Division

ENCLOSURE (1)

2

Review Board and the Competition Advocate of the Marine Corps for recommendations and concurrence prior to approval.

10. Unusual/Compelling Urgency.

a. The statutory authority of 10 U.S.C. 2304(c)(2) addressing unusual and compelling urgency requires that agencies

request offers from as many potential sources as is practicable under the circumstances. Further, FAR 6.301(c) indicates that contracting without providing for full and open competition shall not be justified on the basis of a lack of advance planning by the requiring activity. Requirements and contracting personnel shall place special emphasis in these areas and ensure that these policies are satisfied when the urgency authority is cited.

b. Whenever a J&A requires approval at the Competition Advocate of the Marine Corps (CMC (LB)) or higher level and the authority of 10 U.S.C. 2304(c)(2) is cited, a memorandum certifying the urgency shall be executed by a general officer or a senior executive service civilian responsible for the requirement at the requiring activity. If neither of these levels exists at the requiring activity, the commanding officer or the command's senior civilian official shall execute the urgency memorandum. The memorandum shall describe the nature of the unusual and compelling urgency, why full and open competition is precluded, and the serious injury, financial or other, that would result from a delay in the award. This memorandum shall be attached to the J&A and referenced in paragraph 5 therein, if applicable.

c. For J&A's requiring approval at a level lower than the Competition Advocate of the Marine Corps (CMC (LB)) which cite 10 U.S.C. 2304(c)(2), the requirement for a memorandum certifying the urgency (as described in paragraph 10b, above) and the level of certification shall be at the discretion of the Competition Advocate for the Procuring Activity. Delegation to specify such levels is hereby provided to all properly appointed competition advocates.

11. Federal Information Processing (FIP) Resources.

SECNAVINST 5231.1 and MCO 5236.2 identify approvals that must be obtained prior to contracting for FIP resources including specific contracting officer responsibilities. No J&A for such resources shall be approved unless the approval requirements and guidelines of SECNAVINST 5231.1 and MCO 5236.2 are satisfied. J&A's involving FIP resource acquisitions shall include a discussion of appropriate approvals obtained under paragraph 9, "Any Other Supporting Facts." For example, reference to an approved Delegation of Procurement Authority or Warner exemption should be included in the J&A and a copy placed in the contract file. FIP resource approvals are separate from, and in addition to, the J&A approvals described herein.

ENCLOSURE (1)

12. Modifications to J&A's. Procurement actions which are

being performed on the basis of a J&A must be executed in compliance with the approved J&A. If a requirement changes such that an approved J&A no longer accurately reflects the requirement, the contracting officer shall submit a formal notice of the proposed change to the approval authority for concurrence prior to making the change.

ENCLOSURE (1)

4

J&A FORMAT

(USE CONTRACTING OFFICE LETTERHEAD)

(e.g., MCLABA 10052)

JUSTIFICATION AND APPROVAL TO PROCURE USING OTHER THAN FULL AND OPEN COMPETITION

Upon the basis of the following justification, I, as (insert appropriate title; e.g., Senior Procurement Executive of the Navy; Deputy for Acquisition Policy, Integrity and Accountability; Head of the Contracting Activity; Competition Advocate of the Marine Corps; Competition Advocate for the Procuring Activity; or contracting officer), hereby approve use of other than full and open competition for the proposed contractual action pursuant to the authority of (insert appropriate authority; e.g., 10 U.S.C. 2304 (c) (1)).

Justification

(Insert content required by FAR 6.303-2, NAPS 5206.303-2 and as noted herein under the appropriate information headings listed below. These headings must be included in every J&A. If a particular heading does not apply, annotate N/A along with brief supporting rationale, unless the reason for nonapplicability is self-evident.)

1. Identification of Agency and Contracting Activity.

(e.g., Marine Corps; Marine Corps Logistics Base, Albany, Georgia, Contracts Directorate (Code 892).)

2. Nature/Description of Action.

(e.g., Contracting without providing for full and open

competition. Also, include a discussion of the type of contract being contemplated and why. For class J&A's specify the time limit for the class justification.)

3. Description of Supplies/Services.

4. Identification of Statutory Authority.

(e.g., 10 U.S.C. 2304 (c) (1). Only one or a limited number of responsible sources exists and no other type of supplies or services will satisfy agency requirements.)

5. Demonstration of Contractor's Unique Qualifications.

(Or describe the nature of the action which requires use of the authority cited, if appropriate. If 10 U.S.C. 2304 (c) (2) is

ENCLOSURE (2)

1

cited as the statutory authority, reference the memorandum required by paragraph 10 of enclosure (1) under this heading and attach it to the J&A.)

6. Commerce Business Daily (CBD) Announcement/Potential Sources.

7. Determination of Fair and Reasonable Cost.

(e.g., The contracting officer has determined that the anticipated cost to the Government will be fair and reasonable. Include a statement similar to the preceding sentence and a brief statement explaining the basis for such a determination.)

8. Description of Market Survey.

(Insert information required by FAR 6.303-2 (a) (8).) If a market survey was not conducted, a statement similar to the following could be inserted if appropriate:

Although a formal market survey was not conducted, this procurement was publicized in the CBD. A market survey was not conducted because it is not practicable to establish further competition for reasons stated in paragraph 5, above. In this case the CBD synopsis is considered to perform the same function as a market survey, advising industry of the pending procurement and soliciting inquiries from interested parties.)

9. Any Other Supporting Facts.

(In addition to the information described in FAR 6.302 (a) (9), include information on FIP resource approvals described in enclosure (1) to this Order, if applicable.)

REVIEW FOR LEGAL SUFFICIENCY (NAPS 5206.303-92):

This justification is determined legally sufficient.

(Signature)

Name and Title	Code	Phone	Date
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Approval

APPROVAL BLOCK (see paragraph 6 of enclosure (1) to this Order, FAR 6.304, and DFARS 206.304 for approving official):

APPROVED:

COMPETITION ADVOCATE (PROCURING ACTIVITY)	Date
---	------

ENCLOSURE (2)

3

COMPETITION ADVOCATE OF THE MARINE CORPS	Date
--	------

HEAD OF THE CONTRACTING ACTIVITY (FAR 6.304 (a) (3))	Date
--	------

ENCLOSURE (2)

4

1. another law authorizes the amount to be credited to some other appropriation, or

2. the head of the performing agency decides that replacement is not necessary, in which case, the amount received is deposited in the Treasury as miscellaneous receipts.

C. In accordance with Title 10, U.S.C., section 2205, reimbursements made to DoD appropriations under 31 U.S.C., sections 1535 and 1536 for services rendered or supplies furnished, may be credited to the the appropriation or fund of the activity performing the reimbursable work.

★ 030104. Limitations. Because of previous instances of abuse of Economy Act orders, limitations on the use of Economy Act orders have been imposed. Economy Act orders may not be used by an agency to circumvent conditions and limitations imposed on the use of funds, including extending the period of availability of the cited funds. Acquisitions under the Economy Act are subject to the requirements of FAR Subpart 7.3, "Contractor Versus Government Performance." The Economy Act may not be used to make acquisitions conflicting with any other agency's authority or responsibility (see FAR Subpart 17.502). An Economy Act order cannot be used by one organizational unit to order work or services from another organizational unit under the same activity commander where the activity commander is in a position to fund the required goods or services through the use of direct funds.

★0302 INITIATING AN ECONOMY ACT ORDER

★ 030201. An agency or unit head may initiate an Economy Act order provided that all the conditions specified in subparagraph 030103.A., above, are met.

★ 030202. Determinations and Findings Requirements.

A. In general, all Economy Act orders must be supported by a Determinations and Findings (D&F) that the use of interagency support capabilities is in the best interest of the government and that the required goods, supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source.

B. Economy Act orders that require a contract action by a non-DoD servicing agency also will include a statement on the Determinations and Findings (D&F) that supplies and services provided comply with one or more of the following provisions:

1. The acquisition appropriately will be made under an existing contract of the servicing agency, entered into before placement of the order, to meet the requirements of the servicing agency for the same or similar goods, supplies or services;

★ 030402. Certification of Availability for Purpose. Economy Act orders are subject to the same fiscal limitations that are contained within the appropriation from which they are funded. However, the performing entity may not be aware of all such appropriation limitations. Therefore, the requesting official should provide a certification, on or attached to the Economy Act order, that the funds cited on the Economy Act order are properly chargeable for the purposes cited in the order.

★ 030403. Bona Fide Need. Economy Act orders citing an annual or multiyear appropriation must serve a bona fide need arising, or existing, in the fiscal year (or years) for which the appropriation is available for obligation. Otherwise, a valid obligation is not accomplished. Bona fide need generally is a determination of the requesting activity and not that of the servicing activity. A servicing activity should, however, refuse to accept an Economy Act order if it is obvious that the order does not serve a need existing in the fiscal year for which the appropriation is available.

★ 030404. Appropriation Policy.

A. Obligation. An Economy Act order obligates the applicable appropriation of the requesting agency or unit upon acceptance of the order by the servicing agency. The entire amount of a reimbursable order should be obligated by the requesting agency when the order is accepted.

B. Deobligation. It is critical that activities reconcile the obligation status of Economy Act orders and deobligate unused funds, as needed, before the end of the funds availability. Funds must be deobligated by both the requesting and servicing agency to the extent that the servicing agency or unit filling the order has not, before the end of the period of availability of the appropriation of the requesting or ordering agency, (1) provided the goods or services, or (2) entered into an authorized contract with another entity to provide the requested goods or services.

★ 030405. Commencement of Work. The work to be performed under Economy Act orders shall be expected to begin within a reasonable time after its acceptance by the servicing DoD Component or organizational unit.

★ 030406. Contingent Event Prohibition. Economy Act orders shall not be issued if commencement of work is contingent upon the occurrence of a future event or authorizing action by the requesting DoD Component.

★ 030407. Prohibitions. Economy Act orders may not be used to contravene provisions of the law or to accomplish what regulations do not permit under commercial contracts. Economy Act orders may not be issued to extend the availability of appropriations.

★ C. When the amount to be billed to a non-DoD U.S. Government activity is less than \$1,000, the billing may be suspended by the billing organization until the end of the fiscal year, or until the total billed exceeds \$1,000. However, no later than the end of the fiscal year, all suspended amounts must be billed to non-DoD U.S. Government activities even though the amount to be billed is less than \$1,000.

★0306 REIMBURSEMENTS

★ 030601. Appropriated Funds. The requesting agency must pay the servicing agency the actual costs of the goods or services provided. Actual costs include all direct costs attributable to providing the goods or services, regardless of whether the servicing agency's expenditures are increased. Actual costs also include indirect costs (overhead) to the extent they have a significant relationship to providing the goods or services and benefit the requesting agency. DoD activities not funded by working capital funds normally do not charge indirect costs to other DoD activities. When contracting out for goods or services, the servicing agency may not require payment of a fee or charge which exceeds the actual cost of entering into and administering the contract (reference FAR 17.505). Chapter 1, paragraph 010203, "General Rules for Determining Amounts to be Reimbursed," of this volume, specifies billing policies and procedures for Economy Act orders. Payment shall be made in accordance with paragraph 030502, above.

★ 030602. Working Capital Fund Activities. Reimbursable costs in the case of servicing DoD activities operating under a working capital fund shall be determined in accordance with Volume 11B of this Regulation.

★0307 ACCOUNTING

★ 030701. Economy Act orders may be issued as direct fund cite orders where the requesting unit identifies the appropriate fund citation for the servicing unit to place on the requested contract or reimbursable orders. Economy Act orders shall neither be administered nor accounted for by servicing DoD activities as separate subdivisions of appropriations or funds similar to an allotment. Appropriation-type accounting for Economy Act orders shall be performed by the requesting DoD Component in accordance with Volume 3, Chapter 15, "Receipt and Use of Budget Resources – Execution Level" of this Regulation.

★ 030702. The operations of servicing DoD activities financed under a working capital fund shall be accounted for in accordance with Volume 11B of this Regulation.

★ 030703. Economy Act orders received and accepted are the source of obligational authority in the amount of the order for the performance of the work requested.

★ 030704. A cost account, or other device, shall be used to accumulate the costs of performance for all Economy Act orders. Those cost accounts shall serve as a historical basis for determining the amount reimbursable for cost-reimbursement Economy Act orders and as a basis of determining a fixed price for similar future fixed-price Economy Act orders.

★ 030705. Billings covering reimbursements shall identify costs by each item listed in the Economy Act order. Such billings shall accommodate the use of a DoD (SmartPay) purchase card or the Treasury Department USA Card.

Subpart 17.5 -- Interagency Acquisitions Under the Economy Act

17.500 -- Scope of Subpart.

- (a) This subpart prescribes policies and procedures applicable to interagency acquisitions under the Economy Act (31 U.S.C. 1535). The Economy Act also provides authority for placement of orders between major organizational units within an agency; procedures for such intra-agency transactions are addressed in agency regulations.
- (b) The Economy Act applies when more specific statutory authority does not exist. Examples of interagency acquisitions to which the Economy Act does not apply include-
- (1) Acquisitions from required or optional sources of supplies prescribed in Part 8, which have separate statutory authority (e.g., Federal Supply Schedule contracts); and
 - (2) Acquisitions using Governmentwide acquisition contracts.

17.501 -- Definition.

"Interagency acquisition", as used in this subpart, means a procedure by which an agency needing supplies or services (the requesting agency) obtains them from another agency (the servicing agency).

17.502 -- General.

- (a) The Economy Act authorizes agencies to enter into mutual agreements to obtain supplies or services by inter-agency acquisition.
- (b) The Economy Act may not be used by an agency to circumvent conditions and limitations imposed on the use of funds.
- (c) Acquisitions under the Economy Act are not exempt from the requirements of Subpart 7.3, Contractor Versus Government Performance.
- (d) The Economy Act may not be used to make acquisitions conflicting with any other agency's authority or responsibility (for example, that of the Administrator of General Services under the Federal Property and Administrative Services Act).

17.503 -- Determinations and Findings Requirements.

- (a) Each Economy Act order shall be supported by a Determination and Finding (D&F). The D&F shall state that --
- (1) Use of an interagency acquisition is in the best interest of the Government; and
 - (2) The supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source.
- (b) If the Economy Act order requires contract action by the servicing agency, the D & F must also include a statement that at least one of the following circumstances applies: --
- (1) The acquisition will appropriately be made under an existing contract of the servicing agency, entered into before placement of the order, to meet the requirements of the servicing agency for the same or similar supplies or

to meet its requirements contain provisions protecting the Government from inappropriate charges (for example, provisions mandated for FAR agencies by Part 31), and that adequate contract administration will be provided.

(e) Non-sponsoring Federal agencies may use a Federally Funded Research and Development Center (FFRDC) only if the terms of the FFRDC's sponsoring agreement permit work from other than a sponsoring agency. Work placed with the FFRDC is subject to the acceptance by the sponsor and must fall within the purpose, mission, general scope of effort, or special competency of the FFRDC. (See 35.017; see also 6.302 for procedures to follow where using other than full and open competition.) The non-sponsoring agency shall provide to the sponsoring agency necessary documentation that the requested work would not place the FFRDC in direct competition with domestic private industry.

17.505 -- Payment.

(a) The servicing agency may ask the requesting agency, in writing, for advance payment for all or part of the estimated cost of furnishing the supplies or services. Adjustment on the basis of actual costs shall be made as agreed to by the agencies.

(b) If approved by the servicing agency, payment for actual costs may be made by the requesting agency after the supplies or services have been furnished.

(c) Bills rendered or requests for advance payment shall not be subject to audit or certification in advance of payment.

(d) If the Economy Act order requires use of a contract by the servicing agency, then in no event shall the servicing agency require, or the requiring agency pay, any fee or charge in excess of the actual cost (or estimated cost if the actual cost is not known) of entering into and administering the contract or other agreement under which the order is filled.